



Department of
**Environment &
Conservation**

2018 Legislative Update

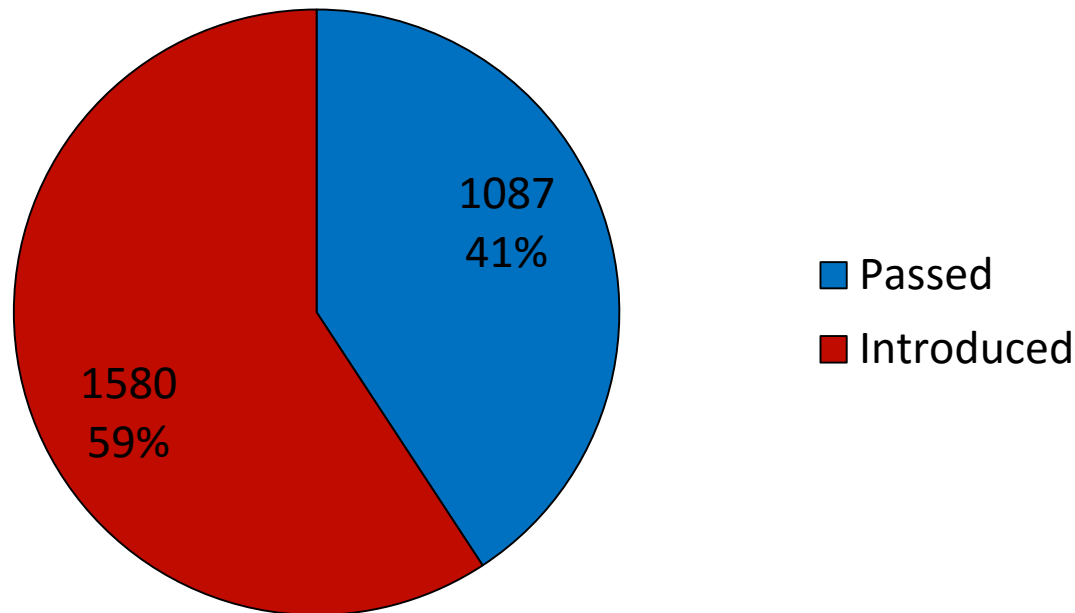
Second Session of the 110th General Assembly

TDEC at the Legislature



Bill Passage Rate – 109th General Assembly

Total: 2667 bills Introduced



New building



Administration Bills – Public Chapter 630 (HB1815 Littleon/ SB2239 Bell)

Public Records - Tenn. Code Ann. § 11-1-102

- Under Title 10, Chapter 7, Part 5, state records are open for inspection by the public
- Narrows the public records exemption for records concerning radioactive materials to clarify that only those records that are confidential under federal law as guidance are exempted under state law (Division of Radiological Health)
- Creates a new exemption for records relating to the location of a historical site or artifact when necessary to prevent damage to the site, artifact or property (Division of Archaeology)



Administration Bills – Public Chapter 753 (HB1816 Howell/ SB2240 Bell)

Ocoee River Recreation and Economic Development Fund

- Starting with the 2019 season, TN State Parks and the newly created Board will be regulating the commercial operations on the Ocoee River
- This bill clarifies provisions from the 2017 Ocoee River legislation to ensure that TDEC is paid for its expenses in managing the Ocoee River



Bills of Interest - Water

Public Chapter 496 (HB0362 Zachary/ SB0295 Briggs)

Post-Construction (Permanent) Stormwater Controls

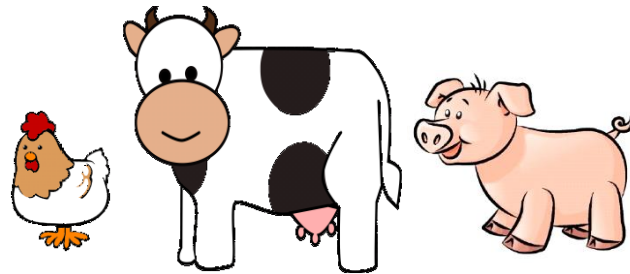
- Municipal Separate Storm Sewer Systems (MS4s)
- Amends Tenn. Code Ann. § 69-3-108(s) to require the Board of Water Quality, Oil, and Gas to promulgate rules regarding numeric or narrative effluent limitations to manage post-construction stormwater
- Rules must take effect before any additional NPDES permits can be issued to a local government entity administering an MS4

Bills of Interest – Water

Public Chapter 523 (HB2317 Hawk/SB2217 Bell)

Concentrated Animal Feeding Operations

- In 2017, the legislature eliminated TDEC's state operating permit for concentrated animal feeding operations (CAFOs) as of March 1, 2018
- Stakeholders agreed to a compromise permitting program, effective March 1, 2018:
 - Large liquid waste AFOs must obtain a state operating permit
 - Medium and small liquid waste AFOs and dry litter AFOs may obtain a permit
 - Less burdensome nutrient management plan requirements
- Rulemaking coming later this year



Bills of Interest – Water

Public Chapter 845 (HB2313 Lollar/SB2229 Southerland)

Permit Shield

- Establishes a permit shield provision in the TN Water Quality Control Act comparable to federal Clean Water Act's provision
- Provides that compliance with an NPDES permit will be deemed compliance for purposes of the provisions of the Act. Compliance includes the discharge of pollutants for which no standard or limit is set forth in the permit if:
 - (1) The permit holder complies with applicable reporting and disclosure requirements under the act; and
 - (2) The discharge of pollutants is disclosed to the department in such a manner that the discharge is within the reasonable contemplation of the department at the time of issuance of the final permit.

Bills of Interest – Water

Public Chapter ??? (HB0631 Staples/SB0619 Harris)

Lead in School Drinking Water

- Requires each local board of education to develop a policy to implement a program to reduce the potential sources of lead contamination in drinking water in public schools that incorporates periodic, not to exceed biennial, testing of lead levels in drinking water sources at school facilities that were constructed prior to January 1, 1998.
- Effective January 1, 2019



Bills of Interest – Water (HB2538 Howell/SB2286 Bell)

Aquatic Pesticides



- Sent to summer study to hear from stakeholders
- As introduced, would require persons who apply pesticides to waters of Tennessee (pursuant to an NPDES permit) to post public notice at all affected public swimming areas, boat launches, and boat docks
- No notice is currently required by the current NPDES general permit, so TDEC would modify its permit to require such notice

Bills of Interest – Coal Mining

Public Chapter 839 (HB0571 Powers/ SB0686 Yager)

Coal Surface Mining Primacy

- Requires the governor to request federal grant funding and apply to the federal government for Tennessee to assume primacy over the regulation of surface coal mining and reclamation operations in the state
- Requires TDEC to serve as the state regulatory authority for surface coal mining and reclamation operations



TDEC exists to enhance the quality of life for citizens of Tennessee and to be stewards of our natural environment.

Bills of Interest – Solid Waste Management

- SB2108 Niceley/HB2442 Shaw (Public Chapter ???)
 - Requires TDEC to maintain materials designed to assist municipal solid waste region board members with administering their regions.
 - The department is required to publish the materials on the website and send electronic copies by July 1, 2018.
- SB2611 Bailey/HB2292 Williams
 - Legislation introduced to address funding needed to clean up illegal tire dump sites.
 - In lieu of legislation, TDEC DSWM agreed to expand eligibility for the FY2019 Waste Tire Cleanup Grant.



Bills of Interest – Air Pollution

Public Chapter ??? (HB1782 / SB2656)

- Multiple bills related to emissions testing were introduced:
 - SB2653 Watson/HB1783 Kane and SB1883 Briggs/HB1859 Kane – allow for 24 month vehicle registration.
 - SB2532 Ketron/HB2548 D. White - allows for biennial inspection. Companion bill to SB2653/HB1783 and SB1883/HB1859.
 - SB1492 Haile/HB1703 Jernigan - allows for tailpipe test in lieu of OBD if check engine light illuminated.
- One bill passed:
 - SB2656 Watson/HB1782 Carter – requires all counties except Davidson to eliminate the I/M program if approved by EPA.

Bills of Interest – Energy

- SB1995 Johnson/HB2037 McCormick (Public Chapter 624)
 - Changes the trigger for anti-price gauging measure from “state of emergency” to “abnormal economic disruption for goods and services.” The declaration can continue for a maximum 15 days unless there is a subsequent declaration.
 - Certain price increases are excluded from being “grossly excessive.”
- SB1793 Bailey/HB1731C. Sexton (Public Chapter 825)
 - Establishes a regulatory framework for wind energy facilities within the state.
 - Wind energy facilities must obtain a certificate of public convenience and necessity from the Public Utility Commission and a permit from the local governing body.
 - The local government must adopt the minimum permitting requirements. The local government must furnish a copy of the adopted local legislation to TDEC.
- SB2397 Yager/HB2432 M. White (Public Chapter 902)
 - Authorizes state procurement agencies to enter into an energy performance or guaranteed savings contract under a pilot project.
 - Contracts are subject to approval by the State Building Commission.

Bills of Interest – Administrative Procedures Public Chapter ??? (HB1895 Matlock/SB1572 Bell)

Definitions of “Rule” and “Policy” under the UAPA

- Clarifies that “**policy**” means:
 - any statement, document, or guideline prepared or issued by any agency that merely defines or explains the meaning of a statute or a rule
 - any statement, document, or guideline concerning only the internal management of state government that does not affect private rights, privileges, or procedures available to the public
- Clarifies that “**rule**” means:
 - any agency regulation, standard, statement, or document of general applicability that is not a policy that:
 - (A) Describes the procedure or practice requirements of an agency; or
 - (B) Implements, prescribes, or interprets an enactment of the general assembly or congress or a regulation adopted by a federal agency.
 - includes the establishment of a fee and the amendment or repeal of a prior rule.
 - exceptions listed in 4-5-102(12)(B)
- All agencies must submit a list of all policies adopted after June 30, 2018, to the Government Operations Committees
 - include a summary of the policy adopted and justification for adopting the policy instead of promulgating a rule

Bills of Interest – Administrative Procedures Public Chapter 611 (HB2437 Gant/SB1573 Bell)

Rulemaking Hearings

- Requires agencies, when statutorily required to hold a public hearing as part of their rulemaking process, to make copies of the rule available in redline form to persons in attendance at the hearing.
 - TDEC's current practice (thanks, Wayne Gregory!)

Bills of Interest – Administrative Procedures

Public Chapter 712 (HB1608 Matlock/HB1724 Bell)

Public Records

- Requires state governmental entities to promulgate rules, rather than adopt policies, to establish a process for making public records requests, for responding to requests, and for the creation of a statement of any fees charged for copies.
 - In 2016, the legislature required all state governmental entities to establish a written policy.
- TDEC will promulgate a rule.
 - Rule 0400-01-01-.01 Access to Department Public Records
 - Sets forth the costs, but not the process for making requests.

Bills of Interest – Administrative Procedures Public Chapter ??? (HB2386 Daniel/SB2603 Bell)

Contested Case Hearings – Venue

- Under the UAPA, a person who is aggrieved by a final decision in a contested case is entitled to judicial review.
- Current law requires that proceedings for review be instituted in chancery court in Davidson County.
- Expands the options for venue to the chancery court:
 - nearest to the place of residence of the person contesting the action, or
 - nearest to the place where the cause of action arose, or
 - Davidson County



Bills of Interest – Administrative Procedures

Public Chapter 793 (HB2248 Faison/SB2465 Roberts)

Professional/Occupational Licenses

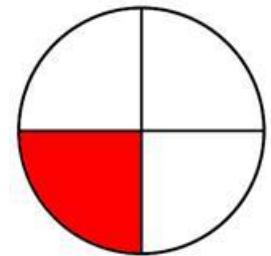
- “Fresh Start Act” brought by The Beacon Center
- Generally prohibits licensing authorities from denying an application for a license, certificate, or registration solely or in part due to a prior criminal conviction that does not directly relate to the applicable occupation, profession, business, or trade.
- Creates a process that all licensing authorities must follow before denying or refusing to renew a license based on the applicant being convicted of a criminal offense.

Bills of Interest – Parks and Conservation

Public Chapter 583 (HB1957 Reedy/SB2714 Bowling)

Archaeological Advisory Council – members

- Deletes $\frac{1}{4}$ blood quantum requirement for membership on the archaeological advisory council, to instead require that the three members be of “Native American descent and representative of the Native American community in Tennessee.”



Other Bills of Interest – Tennessee Historical Commission Public Chapter ??? (HB1572 McDaniel/SB2519 Ketron)

- Requires the proponent of a suit terminating land use as a cemetery to file notice with the Historical Commission at least 30 days prior to any hearing on the suit which will then be posted to the Historical Commission website.
- Suits regarding native Indian human remains are exempted from this requirement as they are subject to other statutory requirements.
- Requires the Commission to establish a historic cemetery advisory committee to study protections and preservation efforts and make recommendations to the Commission.



Other Bills of Interest – Tennessee Historical Commission

Public Chapter ??? (HB1574 McDaniel/SB2520 Ketron)

- Prohibits the sale, transfer, or other disposal of a memorial or public property with a memorial by a local government.
- Authorizes a local government to petition the THC for a waiver of the prohibition of selling, transferring, or disposing of any memorial or public property on which a memorial is located.
- Establishes a complaint process for interested parties to allege violations of the Tennessee Heritage Protection Act by public entities.
- Authorizes any interested party to intervene in a petition for waiver by filing written notice with the THC and allows that party to present testimony at any hearing on the petition.
- Provides certain parties have standing to seek injunctive relief to enforce the THPA.
- Prohibits a public entity in violation of the THPA from entering into grant contracts with ECD for 5 years after the violation.
- Authorizes a historical organization to petition the THC to transfer ownership or relocate publicly owned memorials to the control of the historical organization with consent of the owning public entity.

Bills of Interest – 2019 Budget

- **\$1,000,000** in non-recurring dollars to rapidly complete state-wide digitization of more than 1 million septic system files currently in paper form, often stored in local government buildings with associated rent expense. This project has a projected payback period of 3 years.
- **\$111,000** for two positions to staff a new Visitor Center at Cummins Falls State Park that will be completed this fall.



Sunset Extensions

Tenn. Code Ann. § 4-29-239 (terminate July 1, 2018)

- Board of Water Quality, Oil and Gas
- Underground Storage Tanks and Solid Waste Disposal Control Board
- Tennessee Heritage Conservation Trust Board of Trustees
- Interstate Mining Compact
- All four extended to June 30, 2023

Tenn. Code Ann. § 4-29-240 (terminate July 1, 2019)

- Department sunset (next year)

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The screenshot shows the official website of the Tennessee General Assembly. The browser's address bar displays "http://www.capitol.tn.gov/legislation". The website's header features the "TENNESSEE GENERAL ASSEMBLY" logo and a search bar with the text "Search for Bills, Legislators and more". A navigation menu includes links for "LEGISLATORS", "LEGISLATION", "VIDEOS", "SCHEDULES & CALENDARS", "COMMITTEES", "DIRECTORY", "FIND MY LEGISLATOR", and "MY BILLS". A red arrow points to the "LEGISLATORS" link. Below the navigation menu, a secondary menu lists "Bill Search", "Browse Bills by Index", "Browse Bills by Subject", "My Bills", "Publications", and "Archives". The main content area features a large portrait of Lt. Governor Randy McNally, with a text box to his right stating: "Lt. Governor Randy McNally. On Tuesday, January 10th, 2017, the Honorable Randy McNally was elected to be the 87th Speaker of the Senate and Lieutenant Governor of the Great State of Tennessee. Tennessee's fiscal conscience, Lt. Governor Randy McNally is recognized across the state and nation as a finance and budget expert." The browser's taskbar at the bottom shows various application icons and the system clock indicating 6:05 PM on 5/16/2017.

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Lt. Governor Randy McNally

On Tuesday, January 10th, 2017, the Honorable Randy McNally was elected to be the 87th Speaker of the Senate and Lieutenant Governor of the Great State of Tennessee. Tennessee's fiscal conscience, Lt. Governor Randy McNally is recognized across the state and nation as a finance and budget expert.

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HB 1541

by *McCormick

Show Co-Prime Sponsors

(SB 2544)
by *Norris

Environment and Conservation, Department of - As introduced, broadens the scope of the Used Oil Collection Act of 1993 to address the proper disposal of used antifreeze, transmission fluid, and power steering fluid. - Amends TCA Section 55-4-133 and Title 68, Chapter 211, Part 10.

Bill History Amendments Video Summary Fiscal Note Votes

HB1541 ACTIONS

	DATE
Comp. SB subst.	04/04/2016
H. Placed on Consent Calendar for 4/4/2016	03/31/2016
Placed on cal. Calendar & Rules Committee for 3/31/2016	03/30/2016
Rec. for pass; ref to Calendar & Rules Committee	03/29/2016
Placed on cal. Finance, Ways & Means Committee for 3/29/2016	03/23/2016
Rec. for pass by s/c ref. to Finance, Ways & Means Committee	03/23/2016
Placed on s/c cal Finance, Ways & Means Subcommittee for 3/23/2016	03/16/2016
Assigned to s/c Finance, Ways & Means Subcommittee	03/16/2016

SB2544 ACTIONS

	DATE
Signed by Governor.	04/19/2016
Transmitted to Governor for action.	04/08/2016
Signed by H. Speaker	04/06/2016
Signed by Senate Speaker	04/06/2016
Enrolled and ready for signatures	04/05/2016
Passed H., Ayes 88, Nays 0, PNV 1	04/04/2016
Subst. for comp. HB.	04/04/2016
Rcvd. from S., held on H. desk.	03/30/2016
Engrossed; ready for transmission to House	03/28/2016
Passed Senate, Ayes 32, Nays 0	03/28/2016
Placed on Senate Consent Calendar 2 calendar for 3/28/2016	03/24/2016

Thank you!



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TN

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